

ESTTA Tracking number: **ESTTA494266**

Filing date: **09/13/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Kabbalah Yoga Inc.		
Entity	Corporation	Citizenship	Florida
Address	17038 W. Dixie Highway, Suite 205 North Miami Beach, FL 33160 UNITED STATES		

Attorney information	Meredith Frank Mendez Malloy & Malloy, P.L. 2800 S.W. Third Avenue Miami, FL 33129 UNITED STATES mmendez@malloylaw.com, jcmalloy@malloylaw.com, litigation@malloylaw.com Phone:305-858-8000
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Registrations Subject to Cancellation

Registration No	3497059	Registration date	09/02/2008
Registrant	Gozlan, Audi 5319 Queen Mary Montreal, Quebec, H3X 1T9 CANADA		

Goods/Services Subject to Cancellation

Class 028. First Use: 2007/02/01 First Use In Commerce: 2007/02/01
All goods and services in the class are cancelled, namely: Yoga mats, yoga exercise blocks and yoga exercise belts

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)		
Registration No	3912867	Registration date	02/01/2011
Registrant	Audi Gozlan 5319 Queen Mary Road Montreal, CANADA		

Goods/Services Subject to Cancellation

Class 041. First Use: 2008/11/20 First Use In Commerce: 2008/11/20
All goods and services in the class are cancelled, namely: Yoga instruction

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Registration No	3950368	Registration date	04/26/2011
Registrant	Gozlan Audi 5319 Queen Mary Rd Montreal, H3X1T9 CANADA		

Goods/Services Subject to Cancellation

Class 041. First Use: 2005/07/18 First Use In Commerce: 2005/07/18
All goods and services in the class are cancelled, namely: Yoga instruction

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)		
Registration No	3140290	Registration date	09/05/2006
Registrant	Gozlan, Audi 6456 Ave. MacDonald Montreal, Quebec, H3X 2X2 CANADA		

Goods/Services Subject to Cancellation

Class 016. First Use: 2004/04/27 First Use In Commerce: 2004/04/27
Cancelled goods and services in the class: series of non-fiction books on Jewish mysticism and yoga that feature a system of meditations and body postures for relaxation, health, and exercise for mind, body and soul

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.		Application Date	
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services			

Attachments	Consolidate Petition to Cancel.pdf (18 pages)(453590 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by USPS Express Mail Post Office to Addressee on this date.

Signature	/Meredith Frank Mendez/
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Name	Meredith Frank Mendez
Date	09/13/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark Registration No. 3,140,290
For the mark "AUDI GOZLAN'S KABBALAH YOGA: A GUIDE TO PHYSICAL
MOVEMENT AND MEDITATION FOR MIND, BODY AND SOUL"
Date registered: September 5, 2006

In the matter of trademark Registration No. 3,497,059
For the mark "KABBALAH YOGA"
Date registered: September 2, 2008

In the matter of trademark Registration No. 3,912,867
For the mark "KABBALAH YOGA & Design"
Date registered: February 1, 2011

In the matter of trademark Registration No. 3,950,368
For the mark "KABBALAH YOGA"
Date registered: April 26, 2011

)	
KABBALAH YOGA INC.,)	
a Florida corporation,)	
)	
Petitioner,)	
)	
vs.)	Cancellation No.
)	
AUDI GOZLAN,)	
an individual,)	
)	
Registrant.)	
)	

CONSOLIDATED PETITION TO CANCEL

COMES NOW the Petitioner, KABBALAH YOGA INC.
("Petitioner"), a Florida corporation having an address of 17038
W. Dixie Highway, Suite 205, North Miami Beach, Florida 33160,
and petitions to cancel Registration No. 3,140,290, for the mark

"AUDI GOZLAN'S KABALAH YOGA: A GUIDE TO PHYSICAL MOVEMENT AND MEDITATION FOR MIND, BODY AND SOUL" issued on September 5, 2006; Registration No. 3,497,059, for the mark "KABALAH YOGA", issued on September 2, 2008; Registration No. 3,912,867, for the mark "KABALAH YOGA & Design", issued on February 1, 2011; and Registration No. 3,950,368, for the mark "KABALAH YOGA", issued on April 26, 2011, all owned by Audi Gozlan ("Registrant"), having, upon information and belief, an address of 5319 Queen Mary Road, Montreal, Canada H3X1T9. Petitioner believes that it is or will be damaged by all of the aforesaid Registration Nos. 3,140,290; 3,497,059; 3,912,867; and 3,950,368 and alleges the following for cancellation of same:

LIKELIHOOD OF CONFUSION

1. The first alleged trademark sought to be cancelled is Registration No. 3,140,290, for the mark "AUDI GOZLAN'S KABALAH YOGA: A GUIDE TO PHYSICAL MOVEMENT AND MEDITATION FOR MIND, BODY AND SOUL" in class 016, for use in connection with "series of non-fiction books on Jewish mysticism and yoga that feature a system of meditations and body postures for relaxation, health, and exercise for mind, body and soul" filed on December 2, 2004 pursuant to Section 1(b) of the Lanham Act with a registration date of September 5, 2006. See Exhibit A.

2. The second alleged trademark sought to be cancelled is Registration No. 3,497,059, for the mark "KABALAH YOGA", in class 028, for use in connection with "Yoga mats, yoga exercise blocks and yoga exercise belts" filed on July 19, 2005 pursuant to Section 1(b) of the Lanham Act with a registration date of September 2, 2008. See Exhibit B.

3. The third alleged trademark sought to be cancelled is Registration No. 3,912,867, for the mark "KABALAH YOGA & Design", in class 041, for use in connection with "Yoga instruction" filed on November 30, 2009 pursuant to Section 1(a) of the Lanham Act with a registration date of February 1, 2011. See Exhibit C.

4. The fourth alleged trademark sought to be cancelled is Registration No. 3,950,368, for the mark "KABALAH YOGA", in class 041, for use in connection with "Yoga instruction" filed on July 26, 2010 pursuant to Section 1(a) of the Lanham Act with a registration date of April 26, 2011. See Exhibit D.

5. Exhibits A-D are collectively referred to as Registrant's "KABALAH YOGA" Marks and/or Registrations.

6. Since long prior to Registrant's claimed date(s) of first use and filing date(s) for the "KABALAH YOGA" Marks, Petitioner adopted the trademark "KABBALAH YOGA" for use in

connection with yoga instruction, classes and seminars; related teaching materials such as brochures and booklets; and a series of DVDs in connection with yoga instruction. Since its adoption, Petitioner has continuously used the "KABBALAH YOGA" mark in interstate commerce and foreign commerce for and in connection with such goods and services and has not abandoned this mark.

7. Petitioner has applied to register its "KABBALAH YOGA" mark with the United States Patent and Trademark Office and has been assigned Serial No. 85/727,450.

8. Petitioner has expended considerable time, money, and effort in promoting its goods and services under the "KABBALAH YOGA" mark. The strength of the "KABBALAH YOGA" mark has continuously grown such that Petitioner has established valuable goodwill in the "KABBALAH YOGA" mark.

9. The Registrant's "KABALAH YOGA" Marks are identical or highly similar to Petitioner's "KABBALAH YOGA" mark.

10. The goods and services identified in Registration Nos. 3,140,290; 3,497,059; 3,950,368; and 3,912,867 are identical and/or substantially similar to the goods and services offered by Petitioner in connection with its "KABBALAH YOGA" mark.

11. Upon information and belief, Registrant's goods and services sold and offered under the "KABALAH YOGA" Marks would

be sold or offered for sale to the same consumers as Petitioner's goods and services sold and offered under its "KABBALAH YOGA" mark.

12. There is a likelihood of confusion between Petitioner's "KABBALAH YOGA" mark for its goods and services and Registrant's "KABALAH YOGA" Marks for the goods and services as set forth in Registration Nos. 3,140,290; 3,497,059; 3,950,368; and 3,912,867.

13. If Registrant is permitted to retain the registrations sought to be cancelled, there will be a continued likelihood of confusion, mistake, and deception among the consuming public and the trade, all in violation of §2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

PARTIAL ABANDONMENT OF REGISTRATION

14. Petitioner repeats and re-alleges each and every allegation contained in paragraphs 1 through 13 as if fully set forth herein.

15. Upon information and belief, Registrant is not using, and has never used, the mark "AUDI GOZLAN'S KABALAH YOGA: A GUIDE TO PHYSICAL MOVEMENT AND MEDITATION FOR MIND, BODY AND SOUL" on or in connection with a series of non-fiction books on Jewish mysticism and yoga that feature a system of meditations

and body postures for relaxation, health, and exercise for mind, body and soul.

16. Alternatively, upon information and belief, Registrant discontinued use of its "AUDI GOZLAN'S KABALAH YOGA: A GUIDE TO PHYSICAL MOVEMENT AND MEDITATION FOR MIND, BODY AND SOUL" trademark in connection with a series of non-fiction books on Jewish mysticism and yoga that feature a system of meditations and body postures for relaxation, health, and exercise for mind, body and soul with the intent not to resume use.

16. Upon information and belief, Registrant has not used the "AUDI GOZLAN'S KABALAH YOGA: A GUIDE TO PHYSICAL MOVEMENT AND MEDITATION FOR MIND, BODY AND SOUL" trademark in connection with a series of non-fiction books on Jewish mysticism and yoga that feature a system of meditations and body postures for relaxation, health, and exercise for mind, body and soul within the last three years.

17. Petitioner is likely to be damaged by registration of the "AUDI GOZLAN'S KABALAH YOGA: A GUIDE TO PHYSICAL MOVEMENT AND MEDITATION FOR MIND, BODY AND SOUL" mark because there is a likelihood of confusion between Petitioner's "KABBALAH YOGA" mark and Registrant's "AUDI GOZLAN'S KABALAH YOGA: A GUIDE TO PHYSICAL MOVEMENT AND MEDITATION FOR MIND, BODY AND SOUL" mark.

18. In view of the above allegations, Registrant has abandoned its "AUDI GOZLAN'S KABALAH YOGA: A GUIDE TO PHYSICAL MOVEMENT AND MEDITATION FOR MIND, BODY AND SOUL" mark in connection with a series of non-fiction books on Jewish mysticism and yoga that feature a system of meditations and body postures for relaxation, health, and exercise for mind, body and soul, as defined in Section 45 of the Trademark Act, 15 U.S.C. §1127, and as such is not entitled to continue registration of its alleged mark.

WHEREFORE, Petitioner prays that this Consolidated Petition to Cancel be granted and that said Registration Nos. 3,140,290; 3,497,059; 3,950,368; and 3,912,867 be cancelled.

A duplicate copy of this Consolidated Petition to Cancel and the fee required in § 2.6(a)(16) are enclosed herewith.

Respectfully submitted,

Dated: September 13, 2012

By: /Meredith Frank Mendez/
John Cyril Malloy, III
Florida Bar No. 964,220
Meredith Frank Mendez
Florida Bar No. 502,235
MALLOY & MALLOY, P.L.
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Miami, Florida 33129
Telephone: (305) 858-8000
Facsimile: (305) 858-0008
Email: mmendez@malloylaw.com

CERTIFICATE OF FILING

I HEREBY CERTIFY that the foregoing document was filed electronically via the ESTTA, at the United States Patent and Trademark Office, Trademark Trial and Appeal Board, web site, www.uspto.gov, on September 13, 2012.

By: /Meredith Frank Mendez/
Meredith Frank Mendez

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Consolidated Petition to Cancel has been served on the following on September 13, 2012:

Audi Gozlan
Audi Gozlan & Associates
5319 Queen Mary Road
Montreal, Canada H3X1T9
audigozlan@hotmail.com

Via Express Mail and E-mail

and

Kelly S. Tilley
Audi Gozlan & Associates
107 Delaware Avenue, Suite 1320
Buffalo, New York 14202-2913

Via U.S. Mail

By: /Meredith Frank Mendez/
Meredith Frank Mendez

EXHIBIT A



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AUDI GOZLAN'S KABALAH YOGA: A GUIDE TO PHYSICAL MOVEMENT AND MEDITATION FOR MIND, BODY AND SOUL.

Word Mark	AUDI GOZLAN'S KABALAH YOGA: A GUIDE TO PHYSICAL MOVEMENT AND MEDITATION FOR MIND, BODY AND SOUL.
Goods and Services	IC 016. US 002 005 022 023 029 037 038 050. G & S: series of non-fiction books and brochures on Jewish mysticism and yoga that feature a system of meditations and body postures for relaxation, health, and exercise for mind, body and soul. FIRST USE: 20040427. FIRST USE IN COMMERCE: 20040427
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	78525783
Filing Date	December 2, 2004
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	November 15, 2005
Registration Number	3140290
Registration Date	September 5, 2006
Owner	(REGISTRANT) Gozlan, Audi INDIVIDUAL CANADA 6456 Ave. MacDonald Montreal, Quebec

CANADA H3X 2X2

Attorney of Record Audi Gozlan

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "KABALAH YOGA" APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK

Register PRINCIPAL

Other Data The name in the mark is a living individual whose consent is of record.

Live/Dead Indicator LIVE

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EXHIBIT B



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KABALAH YOGA

Word Mark	KABALAH YOGA
Goods and Services	IC 028. US 022 023 038 050. G & S: Yoga mats, yoga exercise blocks and yoga exercise belts. FIRST USE: 20070201. FIRST USE IN COMMERCE: 20070201
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	78673682
Filing Date	July 19, 2005
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	October 24, 2006
Registration Number	3497059
Registration Date	September 2, 2008
Owner	(REGISTRANT) Gozlan, Audi INDIVIDUAL CANADA 5319 Queen Mary Montreal, Quebec CANADA H3X 1T9
Attorney of Record	Audi Gozlan
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "YOGA" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

EXHIBIT C

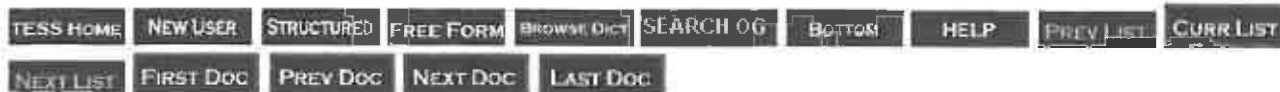


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Word Mark	KABALAH YOGA
Translations	The Hebrew character in the mark transliterates to "ALEF" and this means "ONENESS" in English.
Goods and Services	IC 041. US 100 101 107. G & S: Yoga instruction. FIRST USE: 20081120. FIRST USE IN COMMERCE: 20081120
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	02.01.19 - Athletes (men); Golfer; Men, athletes, strongmen; Strongmen 02.01.32 - Astronauts (men); Frogmen; Men, other, including frogmen, men wearing space suits and men wearing monocles; Monocles (men wearing) 27.03.02 - Humans forming letters or numerals; Humans forming punctuation 28.01.07 - Hebrew characters
Trademark Search Facility Classification Code	ART-09.03 Clothing ART-09.07 Footwear GROT-HUM Exaggerated depiction of a human NOTATION-SYMBOLS Notation Symbols such as Non-Latin characters, punctuation and mathematical signs, zodiac signs, prescription marks SHAPES-GEOMETRIC Geometric figures and solids including squares, rectangles, quadrilaterals and polygons SHAPES-MISC Miscellaneous shaped designs
Serial Number	77881937
Filing Date	November 30, 2009
Current Basis	1A
Original Filing Basis	1A

Published for Opposition November 16, 2010
Registration Number 3912867
Registration Date February 1, 2011
Owner (REGISTRANT) Audi Gozlan INDIVIDUAL CANADA 5319 Queen Mary Road Montreal CANADA
Attorney of Record Audi Gozlan
Prior Registrations 3140290;3497059
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "YOGA" APART FROM THE MARK AS SHOWN
Description of Mark Color is not claimed as a feature of the mark. The mark consists of the wording "KABALAH YOGA" above the Hebrew letter alef. In front of this letter is a man in a Yoga pose.
Type of Mark SERVICE MARK
Register PRINCIPAL-2(F)-IN PART
Other Data The likeness (or, "portrait") in the mark identifies a living individual whose consent is of record.
Live/Dead Indicator LIVE
Distinctiveness
Limitation Statement as to "KABALAH YOGA"

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Kabalah Yoga

Word Mark	KABALAH YOGA
Goods and Services	IC 041. US 100 101 107. G & S: Yoga instruction. FIRST USE: 20050718. FIRST USE IN COMMERCE: 20050718
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85093236
Filing Date	July 26, 2010
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	February 8, 2011
Registration Number	3950368
Registration Date	April 26, 2011
Owner	(REGISTRANT) Gozlan Audi INDIVIDUAL CANADA 5319 Queen Mary Rd Montreal CANADA H3X1T9
Prior Registrations	3140290;3497059
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "YOGA" APART FROM THE MARK AS SHOWN
Type of Mark	SERVICE MARK
Register	PRINCIPAL-2(F)
Live/Dead Indicator	LIVE